

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JULIO ARMANDO MUNOZ,

Plaintiff,

v.

CATES,

Defendant.

Case No. 1:25-cv-00827-BAM (PC)

**ORDER REQUIRING PLAINTIFF TO SHOW
CAUSE WHY ACTION SHOULD NOT BE
DISMISSED, WITHOUT PREJUDICE, FOR
FAILURE TO EXHAUST PRIOR TO FILING
SUIT**

(ECF No. 1)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Julio Armando Munoz (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Pursuant to the Prison Litigation Reform Act of 1995 (“PLRA”), “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Prisoners are required to exhaust the available administrative remedies prior to filing suit. *Jones v. Bock*, 549 U.S. 199, 211 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1199–1201 (9th Cir. 2002). Exhaustion is required regardless of the relief sought by the prisoner and regardless of the relief offered by the process, *Booth v. Churner*, 532 U.S. 731, 741 (2001), and the exhaustion requirement applies to all suits relating to prison life, *Porter v. Nussle*, 534 U.S. 516, 532 (2002).

1 In the complaint, Plaintiff states that there is an inmate appeal or administrative grievance
2 process available at his institution, but he did not submit a request for administrative relief, and he
3 did not appeal his request for relief to the highest level. (ECF No. 1, p. 3.) Plaintiff further states
4 in explanation for why he did not submit or appeal a request for administrative relief, “Haven’t
5 figured it out.” (*Id.*)

6 Based on the information provided, it appears Plaintiff filed suit prematurely without first
7 exhausting his administrative remedies in compliance with the PLRA, section 1997e(a).

8 Accordingly, Plaintiff is HEREBY ORDERED to show cause within **twenty-one (21)**
9 **days** from the date of service of this order why this action should not be dismissed, without
10 prejudice, for failure to exhaust prior to filing suit. *See, e.g., Albino v. Baca*, 747 F.3d 1162, 1169
11 (9th Cir. 2014) (in rare cases where a failure to exhaust is clear from the face of the complaint, it
12 may be dismissed for failure to state a claim); *Medina v. Sacramento Cty. Sheriff’s Dep’t*, No.
13 2:16-cv-0765 AC P, 2016 WL 6038181, at *3 (E.D. Cal. Oct. 14, 2016) (“When it is clear from
14 the face of the complaint and any attached exhibits that a plaintiff did not exhaust his available
15 administrative remedies before commencing an action, the action may be dismissed on screening
16 for failure to state a claim.”); *Lucas v. Dir. of Dep’t. of Corrs.*, 2015 WL 1014037, at *4 (E.D.
17 Cal. Mar. 6, 2015) (relying on *Albino* and dismissing complaint without prejudice on screening
18 due to plaintiff’s failure to exhaust administrative remedies prior to filing suit).

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20 IT IS SO ORDERED.

21 Dated: July 14, 2025

22 /s/ Barbara A. McAuliffe
23 UNITED STATES MAGISTRATE JUDGE
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